

Samuel A. Schwartz, Esq.
Nevada Bar No. 10985
Bryan A. Lindsey
Nevada Bar No. 10662
The Schwartz Law Firm, Inc.
701 East Bridger Avenue, Suite 120
Las Vegas, Nevada 89101
Telephone: (702) 385-5544
Facsimile: (702) 385-2741
Attorneys for the Debtors

E-Filed: October 4, 2010

UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF NEVADA

**DECLARATION OF SAMUEL A. SCHWARTZ CERTIFYING VOTING
ON AND TABULATION OF BALLOTS ACCEPTING AND REJECTING
THE DEBTOR'S PLAN OF REORGANIZATION**

SAMUEL A. SCHWARTZ, ESO., being duly sworn, deposes and says:

1. I am the principal of The Schwartz Law Firm, Inc. (“**SLF**” or the “**Firm**”), 701 East Bridger Avenue, Suite 120, Las Vegas, Nevada 89101. I am authorized to make this declaration on SLF’s behalf and unless otherwise indicated, I have personal knowledge of the facts set forth herein.

The Balloting and Procedures Order

2. On June 7, 2010, the Bankruptcy Court entered an Order approving the procedures (the “**Voting Procedures**”) for the solicitation and tabulation of votes to accept or reject the First Amended Plan of Reorganization of Zubin P. Plasencia (the “**Plan**”). In the Voting Procedures, the Bankruptcy Court, among other things:

- 1 a. approved SLF as the voting and tabulation agent in connection with the
- 2 solicitation and tabulation of votes on the Plan;
- 3 b. approved certain solicitation procedures, vote tabulation rules, forms of
- 4 ballots, and notice requirements regarding the solicitation of votes on the
- 5 Plan;
- 6 c. established June 30, 2010 (the “**Voting Deadline**”), as the last day by
- 7 which SLF may receive Plan acceptances or rejections; and authorized
- 8 d. that any entity entitled to vote to accept or reject the Plan may change its
- 9 vote by casting a superseding Ballot so that such superseding Ballot is
- 10 actually received by SLF.

11 3. On June 2, 2010, SLF mailed solicitation packages in accordance with the Voting
12 Procedures to all claim holders in anticipation of the original July 14, 2010 confirmation hearing,
13 which was continued several times by agreement among the affected parties. A sample copy of
14 the solicitation package was filed with the court on June 2, 2010, Docket No. 118.

15 4. A Certificate of Service was filed with the Bankruptcy Court for mailing on June
16 2, 2010, Docket No. 119. SLF did not receive any solicitation packets as undeliverable.

17 **Classes Entitled to Vote**

18 5. In accordance with the Plan and the Voting Procedures, only claim holders in
19 Classes (or their related sub-classes) 2 and 5 were entitled to vote on the Plan.

20 6. SLF tabulated votes on the Plan in accordance with the tabulation rules in the
21 Voting Procedures and the Bankruptcy Court approved instructions on each Ballot. As of the
22 date and time of this Affidavit, SLF three acceptances and five rejections of the Plan.

23 7. In Class 2(a), Wells Fargo **REJECTED** the Plan.

24 8. In Class 2(c), the San Marchi Family Trust **ACCEPTED** the Plan.

25 9. No other Class 2 votes were received.

1 10. In Class 5, General Unsecured Claims, American Express Bank and American
2 Express Centurion Bank **ACCEPTED** the Plan, while Discover Card, Citicorp, Cheri Pepemonte
3 and Wells Fargo **REJECTED** the Plan.
4

5 11. No other Class 5 votes were received.
6

7 12. Separately, SLF did negotiate and resolve the payment of the claims of Vanguard
8 Funding Corp., the holder of claims in Classes 2(d) and 2(e), however, Vanguard Funding Corp.
9 did not object to the Plan nor did it vote. Accordingly, pursuant to the Voting Procedures,
10 Vanguard Funding Corp. does not have the authority to vote for or against the Plan.
11

12 Pursuant to 28 U.S.C. § 1746, on October 4, 2010, I declare under penalty of
13 perjury that the foregoing is true and correct.
14

15 /s/ Samuel A. Schwartz
16 SAMUEL A. SCHWARTZ, ESQ.
17 Nevada Bar No. 10985
18 Schwartz Law Firm, Inc.
19 701 East Bridger Avenue, Suite 120
20 Las Vegas, Nevada 89101
Telephone: (702) 385-5544
Facsimile: (702) 385-2741
21
22
23
24
25
26
27
28
29
30
31
32
33
34